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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,355	07/12/2000	Michael L. O'Banion	0275A0103COF	2199

7590

11/18/2003

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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 11/18/2003

253

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/614,355

Applicant(s)

Miller et al.

Examiner

Clark F. Dexter

Art Unit

3724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 5, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10, 11, 14, 15, and 22-32 is/are pending in the application.
- 4a) Of the above, claim(s) 2-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10, 11, 14, 15, and 22-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. The amendment filed September 5, 2003 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 10, 11, 14, 15, 22-25 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Viazanko, pn 4,798,113, in view of applicant's admitted prior art (hereafter "APA").

Viazanko teaches or suggests almost every structural limitation of the claimed invention but lacks the cutting tool being movable to second and third positions as now claimed. However, the Examiner takes Official notice that such cutting tools that are capable of such positions,

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commonly known as compound miter saws, are old and well known in the art and provide various well known benefits including manufacturing flexibility. Applicant has admitted that such cutting tools are “well known in the art” (see the replacement paragraph for the paragraph beginning on page 13, line 22). Therefore, it would have been obvious to one having ordinary skill in the art to replace the cutting tool of Viazanko with a compound miter saw for the well known benefits including that described above.

Regarding claims 10, 11, 14, 15 and 25, Viazanko discloses a saw with almost every structural limitation of the claimed invention but lacks a fixed clamping means otherwise referred to as a first anti-removal means, a second anti-removal means, a first member, and a second member. However, the Examiner takes Official notice that it is old and well known in the art to provide a clamping means such as a screw or set screw to lock two slidably adjustable components in place with respect to one another. Such clamping means are well known in various arts for securing slidably adjustable components in a desired position with respect to one another. Therefore, it would have been obvious to one having ordinary skill in the art when wanting to prevent the movable fence portion from moving with respect to the fixed fence portion to provide any well known means including clamping means in the form of screws or set screws in the fixed fence portion (e.g., 20) of Viazanko to secure the movable fence portion (e.g., 160) in a desired position.

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4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Viazanko, pn 4,798,113, in view of the admitted prior art (APA) as applied to claim 22 above, and further in view of Novak, pn 3,901,498.

The combination teaches and/or suggests a saw with almost every structural limitation of the claimed invention but lacks a fixed clamping means. However, the Examiner takes Official notice that it is old and well known in the art to provide a fixed clamping means such as a screw or set screw to lock two slidably adjustable components in place with respect to one another. Such clamping means are well known in various arts for securing slidably adjustable components in a desired position with respect to one another. Therefore, it would have been obvious to one having ordinary skill in the art when wanting to prevent the movable fence portion from moving with respect to the fixed fence portion to provide any well known means including fixed clamping means in the form of screws or set screws in the fixed fence portion (e.g., 20) of Viazanko to secure the movable fence portion (e.g., 160) in a desired position.

The combination further lacks a movable clamping means fixedly interconnected with the movable fence portion. However, movable clamping means are old and well known in the art as evidenced by Novak wherein a movable clamping means (e.g., as best shown in Figures 1 and 4) is provided to fix the movable fence portion in place. Therefore, it would have been obvious to one having ordinary skill in the art when wanting to prevent the movable fence portion from moving with respect to the fixed fence portion to provide any well known means including

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movable clamping means, e.g., in the form of a screw or the like in the movable fence portion (e.g., 144, 160) as taught in Novak to secure the movable fence portion in a desired position.

Response to Arguments

5. Applicant's arguments filed September 5, 2003 have been fully considered but they are not persuasive.

In the paragraph bridging pages 9 and 10 of the amendment, applicant argues

“ Claim 1 defines the movable fences (first and second) are movable to provide for said cutting tool when the cutting tool is in the second and third position. The movable fences in *Viazanko* do not teach this limitation, *Viazanko* does not support the combination of combining admitted prior art, nor does it support the necessary modification of *Viazanko*.”

The Examiner respectfully submits that applicant's argument is not understood. Applicant appears to be arguing that the fences in *Viazanko* are not movable for the same reason or reasons as those of the present invention. However, it is respectfully submitted that the Examiner's position is that the fences in *Viazanko* are movable for at least the reasons/benefits taught by *Viazanko*. Further, the Examiner's position is that it would have been obvious to one having ordinary skill in the art to modify *Viazanko* by providing a cutting tool that is capable of being positioned in the claimed second and third positions to gain obvious known benefits including increased manufacturing capabilities (e.g., bevel cuts).

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In the last paragraph on page 10 of the amendment, applicant argues regarding claims 27 and 28 that “[T]here is absolutely nothing disclosed within *Viazanko* of any other of the cited references that discloses, suggests or provides incentive support for the Examiner’s position of obviousness.” It is respectfully submitted that applicant’s argument is not understood. The Examiner’s position regarding these claims is that the subject matter of claims 27 and 28 is met by *Viazanko* without any modification thereof with respect to this subject matter. For example, both movable fences are movable in a direction toward the saw and are positionable such that they extend out from the fixed fence but remain spaced from the saw. Thus, the movable fences are each movable to a position that is between the respective fixed fence and the cutting tool.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers Technology Center 3700 are: after-final responses - (703)872-9303; other formal/official papers - (703)872-9302. The fax number for informal/draft papers - (703)305-9835.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
November 17, 2003